Office-Supreme Court, U.S.
FILED
AUG 3 1981
ALEXANDER L. STEVAS,
CLERK

80-2070

No. 2070

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

SUMITOMO SHOJI AMERICA, INC.,

Petitioner,

v.

LISA M. AVIGLIANO, DIANNE CHENICEK, ROSEMARY T. CRISTOFARI, CATHERINE CUMMINS, RAELLEN MANDELBAUM, MARIA MANNINA, SHARON MEISELS, FRANCES PACHECO, JOANNE SCHNEIDER, JANICE SILBERSTEIN, REIKO TURNER AND ELIZABETH WONG,

Respondents.

RESPONSE TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

LEWIS M. STEEL
351 Broadway
New York, New York 10013
(212) 966-9620
Attorney for Respondents

STEEL & BELLMAN, P.C.
Of Counsel

(11162)

No. 2070

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

SUMITOMO SHOJI AMERICA, INC.,

Petitioner,

v.

LISA M. AVIGLIANO, DIANNE CHENICEK, ROSEMARY T. CRISTOFARI, CATHERINE CUMMINS, RAELLEN MANDELBAUM, MARIA MANNINA, SHARON MEISELS, FRANCES PACHECO, JOANNE SCHNEIDER, JANICE SILBERSTEIN, REIKO TURNER AND ELIZABETH WONG,

Respondents.

RESPONSE TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Respondents in this proceeding have filed a cross-petition (No. 81-24) in which they have asserted that the decision of the United States Court of Appeals in this matter has decided important questions of Federal law, which have not, but should be, settled by this Court. Respondents adhere to this view with regard to this petition.

Respondents' only reason for opposing the granting of this writ is based on the fact that the issue presented for review in

the petition, if reviewed in isolation from the issues raised in the cross-petition, may not give this Court adequate scope to resolve the Treaty and Title VII questions raised by this litigation. The issue raised by this petition assumes, consistent with the Second Circuit opinion, that the Treaty of Friendship, Commerce and Navigation ("FCN") makes no distinction between foreign corporations incorporated in a country having an FCN with the United States and American domestic subsidiaries of such corporations. Thus, the granting of this writ without the granting of the writ in the cross-petition could leave unresolved the narrower question as to whether an American domestic corporation which is a subsidiary of a foreign corporation incorporated in a country having an FCN with the United States may invoke the Treaty as a defense to a claim that it is engaging in employment discrimination in violation of Title VII. Respondents point out that the United States Department of State takes the position that the FCN in question does not give such an American domestic corporation the right to invoke the Treaty as a defense to a Title VII claim. 74 Am. J. Int'l L. at 158-9 (1980).

For the above reasons, the petition should not be granted unless this Court determines to grant the cross-petition.

Respectfully submitted,

Lewis M. Steel
351 Broadway
New York, New York 10013
(212) 966-9620
Attorney for Respondents

Steel & Bellman, P.C.
Of Counsel